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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of

The Use of N11 Codes and Other
Abbreviated Dialing Arrangements

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CC Docket No. 92-105

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

PETITION FOR CLARIFICATION AND RECONSIDERATION

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SUMMARY

BellSouth seeks clarification of the manner in which N11 codes which are being used locally but have been assigned for special functions should be handled. BellSouth also seeks clarification and reconsideration of those portions of the Commission's order which would appear to affect the manner in which the special functions to which N11 codes have been assigned are to be provisioned.

Specifically, BellSouth requests that the Commission clarify that information service providers who currently use 311 and 711 codes locally are "current users" of these codes who are entitled to continued use of them. The Commission should also clarify whether 311 may be continue to be assigned in the absence of a request for non-emergency police and local government service, and whether 711 may continue to be assigned until 711 access to TRS is implemented nationwide. The Commission should further clarify that nothing in its order alters any existing tariff or imposes additional legal obligations upon LECs with respect to N11 code relinquishment.

The Commission should clarify that its discussions regarding the possible nature of 311 service were not meant to constitute a determination as to how 311 service is to be provisioned. Specifically, the Commission should clarify that it did not mean to require that 311 service be constituted as a 911 analog, particularly with respect to wireless carriers. Because of the lack of any uniform 311 architecture, the Commission should reconsider its six-months from the date of request implementation deadline and not require 311 implementation until (1) the underlying architecture is established; (2) any switch upgrades or software enhancements that are required by the underlying architecture selected are in place; (3) issues resulting from multiple requests in the

same service area have been resolved by the state public service commission through a final order; (4) a state public service commission-approved funding mechanism has been established; and (5) appropriate contractual agreements have been established between CMRS providers and the 311 service provider for 311 service.

Finally, with respect to 611 and 811, the Commission should clarify that an incumbent LEC is not required under the terms of the Commission's order to enable other providers to use these codes in service areas in which the incumbent LEC does not use them. The Commission should further clarify that the method of provisioning dialing arrangements for LEC and local telephone exchange service provider business and repair service are the proper subject of negotiated agreements and state commission orders in the first instance.

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PETITION FOR CLARIFICATION AND RECONSIDERATION

BellSouth Corporation, on behalf of its affiliated companies, by counsel, hereby files its Petition for Clarification and Reconsideration of certain provisions of the First Report and Order in the referenced docket.¹

INTRODUCTION

This proceeding has dealt generally with the question of whether 411, 611, 811 and 911 Service Codes, assigned to serve various special functions in local exchange carrier (LEC) networks, ought to remain so assigned, and whether unassigned 211, 311, 511, and 711 Service Codes should be assigned to serve various special functions.² The Commission has determined in its First Report and Order that N11 Service Codes 311, 411, 611, 711, 811 and 911 should be assigned to serve special functions. BellSouth seeks clarification of the Commission's order in

¹ The Use of N11 Codes and Other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-51, CC Docket No. 92-105 (rel. February 19, 1997).

² The North American Numbering Plan Administrator (NANPA) has previously designated 611 and 811 as unassigned service codes if they are "phased out of service." Unassigned service codes "may be used locally if their assignment and use can be discontinued on short notice. § 3.4 N11 Service Codes, BOC Notes on the LEC Networks - 1994, SR-TSV-002275 (April 1994) ("LEC Network Notes").

two major respects. First, the Commission should clarify the manner in which N11 codes assigned in the First Report and Order but which are being used locally, subject to short notice discontinuation, are to be handled. Second, the Commission should clarify that the First Report and Order is intended to be a numbering assignment order and that the order did not determine the terms of the provisioning, including funding, of the various special functions to which these codes have been assigned. In this second respect, BellSouth seeks reconsideration of any requirement in the First Report and Order which could restrict the flexibility of LECs to provision these special functions.

I. CURRENT USES.

The Commission recognized that parties requesting action with respect to specific N11 codes refer to both “assignment” or “reservation.”³ The Commission, without elaborating on the distinction between the two terms, chose to use the term “assignment” throughout the First Report and Order.⁴ The Commission stated:

Assignment means that a numbering plan administrator announces that a particular number will be used for certain, defined services. This warns current users of that number that they will need to relinquish their use of the number when the new assignment is implemented. Implementation involves, among other things: relinquishing current local uses for the number; preparing switches for the new, assigned use; modifying switches to route calls; and installing additional switching or other equipment required to provided [sic] the services contemplated.⁵

³ See First Report and Order ¶ 10 (noting that the NCLD petitioned the Commission to direct the *assignment* or *reservation* of two uniform N11 numbers for TRS services); ¶¶ 51-52 (noting that states filing comments generally support *assignment* of nationwide N11 codes for TRS access, while LECs generally favor *reservation* of such codes for this purpose and question whether *assignment* is appropriate).

⁴ Id. at n.27.

⁵ Id. at n.7.

By the terms of the First Report and Order, the previously unassigned 311 Service Code is now assigned “as a national code for access to non-emergency police and other government service”⁶ and the previously unassigned 711 Service Code is assigned “as a national code for TRS use.”⁷ The Commission should clarify that under its definition of “assignment” existing 311 and 711 local information service providers are “current users” of these numbers.⁸ The Commission should clarify that such entities are, under the express terms of the First Report and Order, entitled to continue their current use of these codes,⁹ and that the action taken by the Commission does not constitute a “national recall” of these codes.¹⁰

The Commission should further clarify that the 311 Service Code, which, unlike 711, is not subject to a future uniform nationwide implementation date (and may never be the subject of efforts by a local government to activate a non-emergency police or government service),¹¹ should continue to be assigned by LECs and states for non-conforming local uses subject to

⁶ Id. at ¶ 83.

⁷ Id. at ¶ 82.

⁸ There are, in states in which BellSouth is authorized to provide telephone exchange and exchange access service, eight local uses of the previously unassigned 311 Service Code, as well as three local uses of the previously unassigned 711 Service Code, subject to discontinuance on short notice pursuant to BellSouth’s tariffed N11 abbreviated dialing service.

⁹ Supra n.4; See also ¶ 41 (“We note, however, that uses of 311 for other purposes prior to the effective date of this First Report and Order may continue until the local government in that area is prepared to activate a non-emergency 311 service.”). BellSouth requests that the Commission establish a date certain on which 711 users must relinquish their codes.

¹⁰ The Commission expressly declined to adopt specific rules for “future recall of N11 codes.” First Report and Order at ¶ 64. Moreover, the Commission advised that in the event of a “national recall” of an N11 code, parties would be given sufficient notice of the recall and an opportunity to be heard on how the recall should be enforced, as well as an opportunity to address the network, customer, and administrative concerns that affect recall. Id.

¹¹ The Commission has recognized that if a local government concludes that an alternative number is working well for non-emergency calling, it may decide not to request 311 implementation. Id. at ¶ 40.

discontinuance on short notice in those areas where an entity has not made efforts to obtain activation of 311 for non-emergency police and other government service. If the Commission should determine that 311, in light of its national assignment, should not continue to be available, then it should clarify that LECs or states which administer these codes are not in violation of the Communications Act or the policies of this Commission if they refuse to make an assignment of a 311 code to a non-conforming use after the date of the national assignment.¹²

Finally, in dicta, the Commission states that its decision to allow other uses of 311 to continue for a reasonable period will ensure that there is no unreasonably abrupt disruption of those uses.¹³ Nevertheless the Commission goes on to state that, in ensuring relinquishment of non-compliant uses, providers of telecommunication services will be expected by the Commission to “ensure that this occurs with the least disruption possible to the user’s business.”¹⁴

BellSouth’s tariff’s provide that current N11 users, including 311 and 711 code holders, must discontinue their local use of these codes on short notice and that such use is subject to rules prescribed in this docket. In light of the Commission’s determination that allowing 311 uses to continue for a reasonable period will ensure that there is not an unreasonably abrupt termination of that service, the Commission must clarify that a LEC has fulfilled its obligations when it allows

¹² Similarly, in order to avoid potential disputes concerning a LEC or a state’s control over a scarce resource, the Commission should clarify whether the 711 code remains available for new assignment by a LEC or a state for non-TRS local use subject to discontinuance on short notice prior to nationwide TRS access implementation. If not, the Commission should clarify that LECs or states which administer these codes are not in violation of the Communications Act or the policies of this Commission if they refuse to make an assignment of a 711 code to a non-TRS local use after the date of the national assignment.

¹³ Id. at ¶ 38.

¹⁴ Id.

nonconforming existing uses to continue until it receives a request from a 311 entity, and does not require termination prior to receiving such a request.

Furthermore, in its comments to the Department of Justice's 311 Petition, BellSouth requested the Commission to clarify that whenever a local use N11 customer is required to relinquish its N11 code in response to FCC or local government action, that displaced user may be given preference with respect to any remaining unassigned N11 codes or, where, there are no N11 codes available, may be given preference for the next available N11 code assignment.¹⁵ The Commission did not address this request, which could help ensure the least disruption possible for current 311 and 711 code users. BellSouth renews this request. In any event, BellSouth requests that the Commission make clear that nothing in its order regarding relinquishment of N11 codes operates to alter the terms or conditions of any existing tariff or imposes any additional legal obligations upon LECs that are not set forth in such tariffs.

II. THE COMMISSION SHOULD RECONSIDER ITS SIX MONTH 311 IMPLEMENTATION REQUIREMENT.

The First Report and Order constitutes a determination that the 311 Service Code should be assigned nationwide to serve the special function of local non-emergency police and other government service. The order does not state how these special non-emergency police and other government service functions should be provisioned. Nevertheless, the First Report and Order requires that, within six months of a request from an entity to use 311 for access to non-emergency police and other government service in a jurisdiction, a LEC must ensure that it "takes any steps necessary (including reprogramming switch software) to complete 311 calls from its

¹⁵ The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, BellSouth Corporation and BellSouth Telecommunications, Inc., Further Comments, (October 10, 1997) at 5-6.

subscribers to a requesting 311 entity in its service area.”¹⁶ “Any steps necessary” could be interpreted to mean that complete implementation of a 311 special function is to occur within six months of the date a provider of telecommunications services receives a request from an entity to use 311 for access to non-emergency police and other government services.¹⁷

The Commission has tentatively concluded that “nationwide implementation” of 711 as a code for TRS use should occur by or before March 28, 2000, in light of the record evidence that certain issues related to technical and operational capability, cost, and competition, must be resolved before implementation.¹⁸ The Commission’s six month implementation mandate for 311 cannot be premised on the assumption that issues related to technical and operational capability and cost for non-emergency police and other government services have already been resolved, because the First Report and Order made no such determination. Indeed, this proceeding has been about the assignment, and nothing more, of N11 Service Codes, to various special functions. It has not addressed how those special functions ought to be provisioned.

A. 311 is not 911.

BellSouth is concerned that 311 requesting entities will nevertheless interpret the order in this manner, and, specifically, interpret the order as requiring that 311 be provided analogous to 911 service. The Commission should therefore clarify that it is not mandating that telecommunications service providers handle 311 calls in the same manner as 911 calls. Although

¹⁶ Id. at ¶ 84.

¹⁷ The Commission defines “implementation” as involving “among other things: relinquishing current local uses for the number; preparing switches for the new, assigned use; modifying switches to route calls; and installing additional switching or other equipment required to provided [sic] the services contemplated.” Id. at n.7.

¹⁸ Id. at ¶ 55.

the Commission states that states and governments “may deploy 311 through their 911 centers,” the First Report and Order also allows states and local governments to “devise alternative procedures for routing and answering 311 calls.”¹⁹ The lack of urgency in a 311 call, whether in the context of a non-emergency request for police assistance or a request for other government services, renders expensive 911 features such as Automatic Number Identification (“ANI”) and automatic caller location information unnecessary.

The need for additional clarification is especially important with respect to wireless carriers. Although the Commission has properly determined that it should not require CMRS providers to meet the same obligations for 311 as they are required to meet for 911, it is unclear whether the Commission is implying that certain unspecified obligations should apply. At a minimum, the Commission should clarify that CMRS providers are not required to provide ANI or wireless caller location information (for example, delivery of x/y coordinates) to the local government service provider. The Commission should further clarify that CMRS providers are not, under the terms of the First Report and Order, required to provide 311 dialing capability to (1) non-subscribers or (2) to roamers in the absence of a roaming agreement.

The First Report and Order contemplates that the provision of 311 service may be different than the provision of 911 service, and BellSouth anticipates that it will be fundamentally different. The Commission has determined to leave issues relating to funding and cost recovery to the states. The Commission should clarify that, based on the fundamental differences between the services, the funding for each service should be treated separate and apart from the other. The Commission should further clarify that, because states are not empowered jurisdictionally to

¹⁹ Id. at ¶ 42.

approve wireless rates, CMRS providers may set prices and charge 311 service providers for 311 service, and may set prices and charge their subscribers for calls made to local government 311 service providers, without being subject to any limitations set by a state authority.

B. The Six Month Implementation Interval Should Be Reconsidered.

The Commission's six month "any steps necessary" requirement should be reconsidered or clarified in light of the lack of any single, uniform solution, and in light of the very real possibility that multiple requests will be received from entities with overlapping jurisdictions that must necessarily be resolved by state public service commissions.²⁰ The length of implementation will depend upon the number of jurisdictions requesting the use of 311, the type of service requested by the jurisdictions, the architecture that will be needed to support those service requests, by the existence of funding and cost recovery mechanisms, the ability of the LEC to disconnect or "take down" existing nonconforming uses with, as the Commission has requested, "the least disruption possible to the user's business",²¹ and to refile tariffs removing the 311 code from the service offering. Even then, implementation requirements for densely populated areas may require a longer implementation interval than for a less populated area.²² It would be reasonable to expect

²⁰ Id. at ¶¶ 37, 42.

²¹ Supra n. 13.

²² The number of PSAPS and the area of coverage of PSAPs (if these are, in fact, a part of the 311 architecture ultimately selected) varies depending on the demographics of each state. The Commission references the Baltimore 311 trial at n.113. Although the Baltimore trial illustrates that the use of a non-emergency number such as 311 can relieve stress on an 911 system, the Commission must recognize that the trial is limited in scope. The FCC should recommend to the participants in the Baltimore trial that a summary of the existing trial, including a description of alternatives considered and not used, should be made available and presented to various industry forums such as the Industry Numbering Committee (INC). The trial may not address all the concerns and issues each state or jurisdiction will encounter. Although information is available, a thorough analysis of the Baltimore trial will benefit the industry and assist jurisdictions in the implementation of 311 for non-emergency purposes.

that in densely populated areas multiple requests for 311 will come from different entities that span the same geographic area, and thus, may require the public service commissions to initiate proceedings to decide how 311 will be implemented that will make it impossible, as a practical matter, for a LEC to comply with the six month mandate.²³

BellSouth has made N11 available as a tariffed, local calling area based service to information service providers in the states of Georgia, Florida, Louisiana, Tennessee and Alabama.²⁴ The Commission should clarify that BellSouth may meet its 311 implementation obligations by providing such service to requesting 311 entities pursuant to the terms and conditions of those tariffs. If a requesting entity desires any other type of architecture,²⁵ the Commission should reconsider its six month implementation requirement and not require implementation until: (1) the underlying architecture is established; (2) any switch upgrades or software enhancements that are required by the underlying architecture selected are in place; (3) issues resulting from multiple requests in the same service area have been resolved by the state public service commission through a final order; (4) a state public service commission-approved

²³ First Report and Order at ¶ 37.

²⁴ While BellSouth does not seek reconsideration of the Commission's ruling with respect to mandatory assignment of N11 codes for information services, BellSouth notes that in its five years of permissive offering of the service to multiple information service providers in five states it has not experienced "endless litigation over the reasonableness of an exchange carriers' allocation plan," (there has been none) nor has this Commission been drawn "into numerous decisions as to who should receive unassigned N11 codes and for what purpose" (again, there have been no such disputes). Id. at ¶19.

²⁵ For instance, if circumstances require that local police departments or government entities require the ability to route calls to different departments or entities within the geographic area served by a single serving wire center, BellSouth's tariffed N11 Abbreviated Dialing service could not accommodate such needs.

funding mechanism has been established; and (5) appropriate contractual agreements have been established between CMRS providers and the 311 service provider for 311 service.

III. THE COMMISSION SHOULD CLARIFY THAT A LEC IS NOT REQUIRED TO MAKE 611 OR 811 AVAILABLE TO REQUESTING ENTITIES IN SERVICE AREAS IN WHICH THE LEC ITSELF DOES NOT USE THESE DIALING ARRANGEMENTS, AND THAT THE ORDER DOES NOT PREEMPT NEGOTIATED INTERCONNECTION AGREEMENTS OR STATE ARBITRATION DECISIONS.

The Commission ordered that all providers of telephone exchange service, both incumbents and new market entrants, whether facilities or non facilities-based providers of telephone exchange service, (1) should be enabled to use the 611 and 811 codes for repair services and business office uses as the incumbent LECs do now; and (2) by dialing these N11 numbers, customers should be able to reach their new carrier's repair or business services.²⁶ The order does not say who is to do the enabling. BellSouth reads this part of the Commission's order, consistent with the purpose of this docket, as elaborating on the previous national assignment of these codes for LEC Repair Service and LEC Business Office special functions to apply to all telephone exchange service providers, incumbent and new entrant alike. The order does not constitute any Commission determination as to how or when such special functions are to be provisioned, although it is likely to be interpreted in this way.

BellSouth notes that, as an initial matter, providers of telephone exchange services who utilize their own home switches are free to use 611 and 811 codes for repair and business offices uses at any time. Such uses are internal to their network. In the case of resellers, however, and CLECs providing service through unbundled ILEC switches, incumbent LECs should not be

²⁶ Id. at ¶ 85.

required to enable such providers to use 611 and 811 in service areas where the incumbent LEC does not itself use the number for such purposes. For instance, BellSouth uses 611 for repair uses in four of the nine states in which it is authorized to provide telephone exchange service. BellSouth does not use 811 for any purpose in any of the nine states in which it is authorized to provide telephone exchange service.

The Commission should therefore clarify that the First Report and Order does not obligate BellSouth to provide 611 or 811 capability to telephone exchange service providers that use their own switches, that it does not obligate BellSouth to provide 611 capability to resellers or providers purchasing unbundled switching from BellSouth in states in which BellSouth itself does not use the code for repair purposes; and does not obligate BellSouth to enable resellers or providers which purchase unbundled loops to use 811 in states where BellSouth does not use 811 for business office purposes.²⁷ The Commission should further clarify that nothing in the First Report and Order was meant to disturb negotiated interconnection agreements or state commission determinations pertaining to the provision of 411, 611 or 811 special functions.

CONCLUSION

The First Report and Order represents the Commission's determination that certain N11 Service Codes, including previously unassigned N11 codes that are being used for local use that can be discontinued on short notice, ought to be assigned to various special functions. It does not constitute a determination as to how any of those special functions ought to be provisioned. The Commission should therefore clarify its order as advocated herein in order to assure minimum

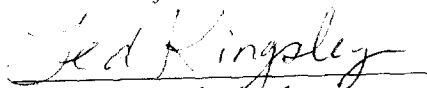
²⁷ Of course, should a facilities-based new market entrant deploy internal 611 or 811 capability in states in which BellSouth has not deployed such internal use, resellers are free to resell the services of the facilities-based competitor.

disruption to existing local uses, and reconsider those aspects of its order, as advocated herein.
that could be construed to dictate how the special functions associated with assigned N11 codes
should be provisioned.

Respectfully submitted,

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